



City of Seattle

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Gregory J. Nickels, Mayor

**Department of Design, Construction and Land Use**

D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

**Application Number:** 2206794

**Applicant Name:** Matt Davis for Carolyn J. Coffee & Paul R. McShane III

**Address of Proposal:** 10225 64<sup>th</sup> Avenue South

**SUMMARY OF PROPOSED ACTION**

Master Use Permit to eliminate legally established parking for one vehicle previously located at 10227 64<sup>th</sup> Avenue South.

The following approval is required:

**Variance** - To allow legally established parking to be removed in a single family zone.  
Seattle Municipal Code 23.40.004(B)

**SEPA DETERMINATION:**      ☒ Exempt   ☐ DNS   ☐ MDNS   ☐ EIS  
  
   ☐ DNS with conditions  
  
   ☐ DNS involving non-exempt grading or demolition, or  
   involving another agency with jurisdiction.

**BACKGROUND DATA**

**Site Description**

The subject lot is approximately 5,398 square feet in area and located in the Sky Way neighborhood. The lot is rectangular in shape with an east/west lengthwise orientation with street frontage along 64<sup>th</sup> Avenue South. The property is zoned Residential, Single-Family 5000 (SF 5000) with no other outstanding zoning characteristics in this expansive residential neighborhood.

The site is currently developed with a modest two-story single-family residence (built in 1909) that features large windows that look east towards Lake Washington. When the structure was originally built the development site included two platted lots with parking established on Lot 6, while the house was sited on Lot 5. With a recent tax parcel segregation of the original

development site into two tax lots, the existing single family structure is situated solely on Lot 5. The single family structure is approximately 10.5 feet away from its north property boundary line, 23 feet from the 64<sup>th</sup> Avenue South right-of-way, 13 feet from its south property boundary line, and 46 feet from its rear (west) property boundary line. A shed structure currently located between the structure's north façade and north property line is nonconforming to current development standards and will need to be removed or relocated to a conforming location at the development site.

The site slopes upward from east to west between 5 to 7 feet within the first nine feet from the front property line abutting 64<sup>th</sup> Avenue South. A rockery with plantings frames this grade elevation change adjacent to the right-of-way. The site then levels out to approximately 4 foot of elevation change over the remaining 98 plus feet. Bushes and shrubbery dominate the front yard just below the structure's front windows. Concrete steps on grade access the single family residence at the southeast corner of the lot. The site currently does not have on-site parking after the lots were split apart in 1998 which is the subject of this review. The Land Use Code requires that the subject lot re-establish its original conforming parking onto Lot 5.

### Development in the Vicinity

The immediate vicinity is zoned for single family residential development (SF 5000 and SF 7200 zones). The area is developed primarily with single and two-story single family residences in a mix of architectural styles. This area appears to be a quiet, moderately populated community. The area is open to the sky with few trees to provide shade from the afternoon sun. The streetscape is visually impacted by the dominance of utility poles within the 64<sup>th</sup> Avenue South right-of-way. Sixty-fourth (64<sup>th</sup>) Avenue South is an arterial street that serves as a Metro transit bus route for Bus #7.

The general area sits upon a hillside that slopes downward to the northeast, and east, to Lake Washington. There are a few pockets of steep slope and potential slide; Environmental Critical Areas on the hillside. The area appears to be underdeveloped and as such could support additional development.

### Proposal Description

The applicant has proposed to eliminate required parking on the subject site. The Land Use Code requires accessory parking for the establishment of residential uses or the continuation of conforming features when once established in single family zones, on the same development site where the single family structure is located. The development site contained two underlying platted lots up until 1998 when the former owner, Hunny Construction, Inc. segregated the site. After the segregation of the original development site the single family structure was located on lot 5, Block 1, of the Kinnear's 1<sup>st</sup> Rainier Beach Addition. The accessory garage was located on lot 6, Block 1, of the Kinnear's 1<sup>st</sup> Rainier Beach Addition. These two lots were held in common from 1925 through 1998 when the current owners, Carolyn J. Coffee & Paul R. McShane III purchased Lot 5 (subject site) from Hunny Construction, Inc. Since the conforming parking was located on Lot 6, the Land Use Code required relocation of said parking on Lot 6 to be relocated to Lot 5, (Lot 5 being the site where the single family structure is located). Two months after the sale of the property Hunny Construction, Inc. applied and received a Subject to Field Inspection permit (#704562) on February 18, 1999 to establish parking on Lot 5. The

applicant refused to allow Hunny Construction, Inc. to provide parking out of fear that the foundation of the existing residential structure would be undermined. The applicant now seeks a variance to eliminate required parking on Lot 5.

Hunny Construction, Inc segregated the original development site into two lots for the specific purpose of developing Lot 6 to establish a new single family residence within the City of Seattle. On February 17, 1999, a day before securing a permit to establish parking on Lot 5 (subject site) Hunny Construction, Inc. applied to DCLU to develop Lot 6. A building permit (#705968) to construct a single family residence with accessory parking on Lot 6 was issued on May 6, 1999. The owners of Lot 5 refused to allow Hunny Construction, Inc. to install parking on their lot throughout the construction phase on Lot 6.

On April 4, 2001, the owners of the subject site received a Notice of Violation from DCLU to reestablish parking on Lot 5. The owners are seeking relief to establish parking on their lot through the variance process, the subject of this application.

#### Public Comment

The 14-day public comment period was extended an additional 14 days which ended April 2, 2003. A total of nine written comment letters were received. The first batch of five (5) were received at the time of application intake (2/12/03), and the remaining four (4) were received on March 26, 2003. The comment letters are form letters that express generalized support of the applicant's variance with five (5) additional comments of personal testimonies. The comments received ranged from protecting an existing rock garden to negligible impact of on-street parking on the block front. One comment was received over the telephone that was against the requested variance. The person expressed her concern that the unresolved parking issue was the sole factor in her not pursuing the purchase of Lot 5 from Hunny Construction, Inc. until on-site parking was resolved.

#### ANALYSIS - VARIANCES

As provided in SMC 23.40.020, variances from the provisions or requirements set forth in the Seattle Municipal Code shall be authorized only when all of the following facts and conditions are found to exist:

- 1. Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity.*

There are no discernable unusual conditions associated with the development site. As mention earlier the lot is rectangular in shape, comprising an area of approximately 5,398 square feet. The minimum required lot area for this single family zone is 5,000 square feet, which places the subject site 398 square feet above the minimum requirement. The existing single family residential structure is located approximately 23 feet from the front property line, 46 feet from the rear, 13 feet from the south (side yard), and 10 feet from the north (side yard) property boundary lines. With an existing grade sloping upwards away from the public right-of-way, the house is elevated above the sidewalk approximately five (5) to eight (8) feet. The subject site's

grade elevation increases significantly within the first nine (9) feet and then levels out with an elevation change of four (4) feet over the remaining 98 or so feet. The area within the first nine (9) feet is comprised of a rockery with landscaped features rises approximately 6 feet on average above the sidewalk. Due to the prevailing topography throughout the City of Seattle conditions such as this is not uncommon with varying minor deviations in single family zones. More specifically, lots within the vicinity have established off-street parking with topographic conditions similar to the subject site.

The establishment of off-street parking at the subject site could be accomplished in four different locations. With regards to this specific property, the Land Use Code would allow parking to be located in the front, rear or side yards. (Refer to SMC Section 23.44.016.C) With a minimum separation of 10 feet between the residential structure and the side property lines, and conforming street access, parking could occur in either side yard. By virtue of the development site accommodating parking in the side yards that same area could be used as driveway serving parking located in the rear yard. The site meets the criterion to establish parking in the front yard with an existing grade elevation sloping upwards to six (6) feet within the first 10 feet from the front property boundary line. Two alternatives could be proposed in the front yard, a surface parking pad (as proposed with permit #704562) or a terrace garage structure. Anyone of the above alternatives is a viable option to provide off-street parking at the development site.

As discussed previously Seattle is a city where a number of residential development sites have topographic conditions similar to the subject site's uphill sloping lot. The new single family structure constructed next door on Lot 6 was able to provide parking with similar topographic site conditions. Likewise, a number of applications to provide parking on uphill sloping lots with existing single family structures are processed yearly. No unusual conditions could be found on the development site, the strict application of the Land Use Code would not deprive the subject lot of property rights and privileges enjoyed by other properties both in the same zone and the same vicinity. The previous owner, Hunny construction had every intention of providing conforming parking on the subject lot. There was no hint of any unusual conditions that would have prohibited the Subject To Field Inspection permit to establish parking on Lot 5, other than the request from the current owners. Depending on the construction techniques employed to install conforming parking at the development site, the adverse impact to the existing single family structure's foundation should be negligible.

Therefore, granting the requested variance would provide the property with rights and privileges not enjoyed by other properties in the same zone or vicinity.

2. *The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located.*

The requested variance to eliminate legally established parking for one vehicle previously located on Lot 6 of a two platted lot development site would go beyond the minimum necessary to afford relief or would constitute a grant of special privilege.

As discussed previously, four viable locations to park at least one vehicle exists at Lot 5 (development site). With the advances in construction practices the existing foundation for the single family structure would not be undermined with the placement of a surface driveway along the side yard or retaining wall in the front yard. The Subject to Field Inspection permit placed a driveway with a parking pad along the property's southern boundary line, above the existing side sewer and water line. Depending on the amount of grading in this area the utility lines would be modified to accommodate installation of surface parking. Parking and its access driveway could be located along the north boundary line to avoid disturbance of existing utility lines below grade. The fact that five (5) other lots do not have existing on-site parking in a three block area does not address the specific nature of this development site, that at one time had conforming parking. As mentioned above, the previous owner sought to establish parking at the subject site but the current owners refused to let Hunny Construction complete the work. For whatever reasons other than undermining the integrity of the foundation, a claim that has not been substantiated, the owners refusal to let Hunny Construction Inc. install a surface parking pad and driveway is inconsistent with current Land Use Code requirements. The original development site at one time had conforming parking and the current subject site could have conforming parking in any one of the required yard as mentioned previously. To allow this variance would represent a grant of special privilege because other existing single family residences with similar topographic conditions located in the vicinity would be required to reestablish parking on their lots.

Therefore, the requested variance would go beyond the minimum necessary to afford relief and would constitute a grant of special privilege.

3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located.*

The granting of the variance would not be materially detrimental to the public welfare or injurious to the property or improvements in the zone and vicinity. The proposed elimination of legally established parking at the site would result in marginal impacts in the 64<sup>th</sup> Avenue South right-of-way. Availability of on-street parking in this modestly dense residential neighborhood does not appear to be a problem, as was noted in several comment letters from neighbors. By granting the requested variance the owners of the subject site would continue to park their vehicles on the public street and therefore maintain the existing impacts since 1998 within the 64<sup>th</sup> Avenue South right-of-way.

Therefore, granting this variance would not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located.

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties.*

The literal interpretation and strict application of the Land Use Code would require that the existing legally established parking be relocated at the subject site. The owners have at least four options available to them to reestablish parking on the subject site. Two (2) proposed locations

may require modifications to the existing residential structure which is not unusual given the preexisting conditions at the development site. Depending on the available options to establish parking elsewhere on the lot, the only inconvenience anticipated will be during construction and installation. The previous owner, Hunny Construction had designed a surface parking configuration that would have conformed to development standards if they were allowed to proceed with the permit (#704562) to establish parking at the subject site. It would not cause the owners undue hardship or practical difficulties to allow on-site conforming parking.

Therefore, the literal interpretation of the requirements of the Land Use Code would not result in undue hardship to and practical difficulties for the applicant.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.*

Single family zones are the heart of our City, where human interactions on residential blocks are enhanced by attractive and active streetscapes. The parking of vehicles in the right-of-way contributes to impeding this interaction, therefore policies were established to move vehicles off the street and onto private property. The amended Seattle's Comprehensive Plan (12/00) states in-part within Single Family Zones to; "Require off-street parking and regulate its location to reduce the impact created on the streetscape by the location of accessory parking structures, vehicles, and curbcuts." (L85) "In order to maintain an attractive street level environment" (L86) controlling the number of on-street parking is mandated. The proposed elimination of required parking at the subject site would result in increasing the number of vehicles in the right-of-way. Where required parking can be maintained on-site, it behooves DCLU to assist in sustaining the levels of vehicles parked upon our city streets. Streetscapes that are open with landscaped front yards encourage pedestrian interaction and provide a sense of calm for the residential population. To relocate conforming on-site parking to the right-of-way when the owner could provide parking on their lot would detract from the goals to minimize the dominance of vehicles upon our residential streets.

Seattle Municipal Code's (SMC) Land Use Chapter 23.40.002 requires the "owners of such structures, buildings or premises or parts thereof are responsible for any failure of such structures, buildings or premises to conform to the regulations of this title and for compliance with the provisions of this title in or on such structures, buildings or premises." Even when another individual or entity created, caused or contributed to a condition in or on such structures, buildings or premises shall be held responsible with the owner shouldering the burden of demonstrating their impunity. After the tax segregation the owners are responsible for reestablishing conforming parking on the lot where the existing single family structure is located (Lot 5). According to SMC Section 23.40.004, any elimination in legally established parking existing on or after July 24, 1957 that became required as accessory to a principal use on or after July 24, 1957 is not allowed. It is the responsibility of the owner to resolve the creation of the nonconforming condition.

Therefore, granting the requested variance would not be consistent with the spirit and purpose of Land Use Code regulations for the area.

**DECISION - VARIANCE**

The proposed variance to eliminate legally established parking for one vehicle previously located on Lot 6, at 10227 64<sup>th</sup> Avenue South is **DENIED**.

Signature: \_\_\_\_\_ (signature on file) Date: June 5, 2003

Bradley Wilburn, Land Use Planner  
Department of Design, Construction and Land Use  
Land Use Services

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